

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

Claims 1, 3, 4, and 6-17 are pending in the present application.

The outstanding Office Action rejects Claims 1, 3, 4, and 6-17 were under 35 U.S.C. §102(b) as anticipated by Suzuki et al. (U.S. Patent No. 6,245,982) in view of Evans et al. (U.S. Patent Publication No. 2004/0001695, hereinafter Evans).

With respect to the rejection of Claim 1 as unpatentable over Suzuki and Evans, Applicant respectfully traverses this ground of rejection. Claim 1 recites, *inter alia*,

obtaining, at the audio reproduction apparatus, a
***single audio data file having a data structure that
includes audio data, character data defining a shape of
a character, and motion data defining motion of the
character having the shape specified by the character
data.***

A proper combination of Suzuki and Evans does not disclose or suggest every element of amended Claim 1.

Page 7 of the Office Action acknowledges that Suzuki does not have the audio data, the character data, and the motion data in the data structure of a single audio data file. The Office Action relies upon Evans to cure this deficiency. Applicants respectfully traverse the position taken with respect to Evans.

Evans does not disclose a single audio data file having a data structure that includes audio data, character data defining a shape of a character, and motion data defining motion of the character having the shape specified by the character data. Rather, Evans describes a DVD with multiplexed video packets and audio packets. The presence of video packets and audio packets in a data stream read from a DVD does not equate to the above-noted elements of Claim 1.

The Office's interpretation of "single audio file" at page 2 of the Office Action is too broad. The Office cannot merely give the claims the broadest interpretation that it can come

up with. On the contrary, the Office must give the claims the broadest reasonable interpretation in *light of the specification as it would be interpreted by one of ordinary skill in the art*. As stated by the Board of Patent Appeals and Interferences in *Ex parte John Temple* (Appeal 2009-0012, decided March 16, 2009) at page 12,

The Examiner must therefore “determine[] the scope of claims in patent applications *not solely on the basis of the claim language*, but upon giving claims their broadest reasonable construction ‘in light of the specification as it would be interpreted by one of ordinary skill in the art.’” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316 (Fed. Cir. 2005) (emphasis added) (quoting *In re American Academy of Science Tech Center*, 367 F.3d 1359, 1364 (Fed. Cir. 2004).

Page 2 of the present specification discusses DVDs and the image data recorded with the audio data. A person of ordinary skill in the art would understand that the image data and the audio data are separate from each other. The image data and the audio data of Evans cannot be properly considered to be a “single audio file” because it would be inconsistent with the understanding of a person of ordinary skill in the art. The present specification, as would be understood by a person of ordinary skill in the art, clearly indicates that the claimed “single audio file,” with the data structure as claimed, is different from a combination of the image data and audio data of a DVD.¹

Furthermore, a person of ordinary skill in the art would not use the DVD structure (combination of audio packets and video packets) of Evans with the system of Suzuki.

Suzuki states:

the motion descriptive file included in the sequence file of the present invention holds information that permits retrieval of desired data from the motion component database 20, rather than image information itself. This leads to reduced size and improved portability of the sequence file.²

¹ Compare page 2 of the specification to the “Best Mode For Carrying Out The Invention” section beginning at page 6 of the specification.

² Suzuki, col. 16, lines 50-54.

The DVD structure, on the contrary, has a large data volume because of the image data.³ Thus, modifying Suzuki's system to use the DVD structure described in Evans would render Suzuki's system unsatisfactory for its intended purpose of having reduced size and improved portability. "If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification."⁴

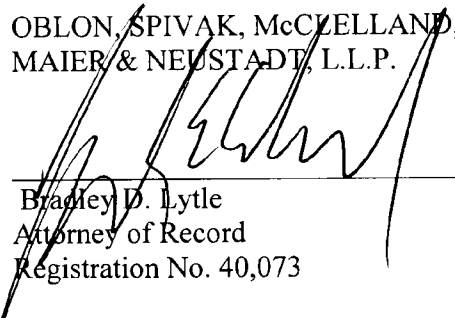
Thus, a person of ordinary skill in the art could not modify Suzuki based on Evans to arrive at the invention defined by Claim 1.

In view of the above-noted distinctions, Applicant respectfully submits that Claim 1 (and any claims dependent thereon) patentably distinguish over a proper combination of Suzuki and Evans. Claims 4 and 17 recite elements analogous to Claim 1. Thus, Claims 4 and 17 (and any claims dependent thereon) patentably distinguish over a proper combination of Suzuki and Evans, for at least the reasons stated for Claim 1.

Consequently, in light of the above discussion, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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³ Specification, p. 2, line 10.

⁴ MPEP §2143.01(V).